

University Teachers for Human Rights (Jaffna)

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Sri Lanka's Humanitarian Crisis or the Crisis of a Majoritarian Polity?

Contents:

1. A Challenge Requiring Vision

2. Questions relating to the Government's 'Humanitarian Offensive'

3. A Scorched Earth Policy?

4. Eastern Province – 'A model for post-conflict peace building and development'

5. Forced Resettlement of Traumatized IDPs

6. How the Forced Movement of Refugees was Effected?

7. Resettlement of Refugees or Sweeping them Under the Carpet?

8. From the Frying Pan into the Fire and Back into the Frying Pan

9. Compensation for Tamil Victims in the East – No Discrimination on Paper in Sri Lanka

10. The New IDP Phenomenon as Related by those on the Firing Line – Shelled from Sampoor to Vaharai to Batticaloa

10.1 To Languish, Disperse and Disappear?

10.2 Government and LTTE: A New Desultory Chapter in Decimating the Tamils

10.3 'Liberating Sampoor'

[10.4 Flight to Vaharai](#)

[10.5 The Shelling of Vigneswara School](#)

[10.6 December 2006 – Rain of Shells and the Final Flight](#)

[10.7 Games of Bankruptcy: LTTE-Karuna and the Uses of Muslim Bashing](#)

[11. A 21 Year Saga of Cross-Border Displacement – Travails of a South Asian Refugee from Trincomalee](#)

[12. Implications for Resettlement](#)

[Appendix](#)

[Payment of Compensation](#)

1. A Challenge Requiring Vision

Sri Lanka's ethnic conflict compounded over several decades by an increasingly violent state culture is remarkable for the mere fact that the State has doddered along despite its vanishing credibility. A country that once had tremendous potential to become a model third world democracy continues to be undone by the dearth of visionary leaders committed to building a multi-ethnic and multi-religious society. Instead they have turned democracy into a vehicle for its own debasement. Ethnic nationalism has so over-determined the course of nation building, that we are left virtually with a Sinhalese hegemonic state, and one acutely resistant to reform.

Every attempt at political reform has resulted in authoritarians tightening their grip on the South as well as the North. The Tamil community lies crushed between multiple predators, including the State and its anarchic cheerleaders, the LTTE and the Karuna group. Tamils are overwhelmed by despondency. Human rights violations are now brazenly in the open and none of the actors seem to care about criticism. Herein lay the roots of the present humanitarian crisis. Unable to address this in an enlightened manner, the State has continued to browbeat the minorities, especially the Tamils, violating civilized norms with such abandon as to challenge the credibility of international human rights mechanisms.

When questioned about the State's conduct, official representatives and a host of eager volunteers spew out virulent rhetoric against the UN and reputed INGOs. The JVP, which in partnership with the LTTE unleashed a bloodbath against the Indo-Lanka Accord, has now become the blindest devotee of the Armed forces it then attacked viciously! Benighted sections of Sri Lankan society with narrow agendas and narrower vision are determining state policy, and they lack any understanding of the obligations of a state to its own people. It is as though they want Sri Lanka to become another Zimbabwe or Sudan.

The LTTE thrives on anarchy, and has found ample opportunity to drive its agenda immaterial of the human cost and suffering. To our great misfortune, sane political leadership, which would guide the armed forces to perform their task while being responsive to their obligations towards civilians, is in abeyance.

The lack of intellectual discourse in the media, which has bowed under the State's overt pressure to conform, exemplifies how pitifully little the country has learned from past blunders. Leading columnists, who brush aside the fatal rot as merely a terrorist problem, betray the ordinary people of all communities who understand the present dangerous trajectory all too well and rarely swerved in their tolerance and humanity towards one another.

The UTHR(J) expressed fears from the start that the peace process initiated in 2002 would lead to the kind of impasse we are now experiencing unless robust human rights protection was built in. At the same time a solution would have required that the South put forward a tenable political framework to which the Tamil people's and LTTE's response is called. The LTTE and Government were rather allowed to trifle around, only the former being clear what it was about. Under the sway of Norway and the international community, our expressions of concern that the flawed peace process and the limitations of the State would leave the Tamils thoroughly blighted were damned by influential peace actors as advocacy for war.

In the short term it is the political establishment that could arrest the fall. Herein lies the challenge: Leadership on the political front must:

Argue and mobilise opinion for a political settlement and restructure the State to enshrine ethnic and religious pluralism;

Restore government accountability in the short term, and render human rights the rule rather than the exception;

Restore the State's legitimacy among the minorities by dismantling the trappings of a Sinhalese state; Convincing the Tamils that they have a dignified alternative to suicidal reliance on the LTTE.

This bulletin deals with the plight of civilians in the East caught between the loathsome agendas of the Government and the LTTE. The humanitarian crisis cannot be addressed simply by donor nations pouring in money for relief, while the Government disowns its own citizens and spends illegitimately on munitions. They must, rather, ensure that the State begins to treat the Tamil people as citizens of this country. State policy intent on debasing and crippling a people in their natural home is the equivalent of ethnic cleansing. Dubious efforts at resettlement make one wonder if this is this another exercise in making Tamil refugees languish, disperse and disappear as happened to refugees evicted from South Mullaitivu and adjoining parts of Trincomalee North in 1985 (Special Report No.5). Then it was to make way for the Sinhalese settlement of Weli Oya.

2. Questions relating to the Government's 'Humanitarian Offensive'

LTTE provocation from the onset of the 2002 ceasefire to extend its military control over the Mutur area and the confinement of Muslims through terror are facts that we have documented in our reports. Correspondingly, the recent actions of the Government have also raised questions about whether it was acting as a responsible government trying to build bridges to the Tamils as distinct from the LTTE, or whether the Tamils were being treated as people to be dealt with solely by military means and subterfuge. These questions pertain to the following:

1.) The anti-Tamil communal violence in Trincomalee on 12th April 2006 following a suspected LTTE bomb attack in the market and the missile attack on Sampoor on 25th April after the suicide attack on the Army Commander in Colombo went like clockwork;

2.) The appointment of a military GA for Trincomalee, the Supreme Court drama to de-merge the North-East, the virtual closure of the entry and exit points to Mutur East for goods and persons creating immense distress for the several thousand IDP already there and the upgrading of Kallar army camp to Brigade level, all happened around mid-July. The LTTE closed the Mavil Aru sluice gates after these, and one of its demands concerned the flow of goods and persons to Mutur East on the basis of which the SLMM negotiated a settlement. But from early August 2006 the Government went ahead with military operations in defiance of the settlement.

The controversial Supreme Court judgment declaring the North-East merger invalid, written by the Chief Justice and simply signed 'I agree' by the other justices on the bench, was released on 16th October at the height of displacement and suffering in Mutur East and Vaharai. The administrative de-merger by the newly appointed Governor of the East was announced in the Press on 23rd December when the fall of Vaharai was imminent. Were these mere coincidences?

To the Tamils who have seen decades of violence by the State, exclusion from its institutions and patronage, the increasingly mono-ethnic character of the armed forces and finally even the higher judiciary tarnished by a series of insensitive judgments adverse to the Tamils, the recent experience shatters hope of any good from the Sri Lankan state.

3. A Scorched Earth Policy?

The continuing ordeal of those who fled Vaharai and Sampoor has been well documented by several groups. Below we give some salient features related to the experience of the ordinary civilians. The Army finally took control of Vaharai on 19th January 2007. All military victories are hyped. Losses there and in battles the victor would rather not talk about are played down. The crippled are swept under the carpet. Losses to the enemy are wildly exaggerated. The Government hid its future uncertainties behind a victory exhibition at the BMICH in Colombo last February. It added insult to injury by transporting to the victory exhibition 150 Vaharai schoolgirls who fled intense government shelling to a refugee camp in Kaluwanchikudy.

While the President claimed that the Government took Sampoor to free the civilians from the LTTE, it seems to have also freed them of their land and livelihood and keeps them vagrants; threatened, sometimes beaten, and shuttled from camp to camp against their will with no firm assurances. They have heard stories that their homes have been looted and levelled to make way for a coal-fired power station or security zones. Under pressure to resettle the displaced, the Government is set to deprive them of much of their living and economic space citing security concerns. This again shows that government policy and long term outlook are going to be governed by permanent security concerns and protracted conflict, based on the premise that Tamils are Tigers who must be subdued. Correspondingly any government assurance of a political settlement is likely to be a time buying exercise.

On 27th February, LTTE fire injured the US and Italian ambassadors who were brought to Batticaloa by air. Amid mutual recriminations by both sides, the Government launched indiscriminate shelling into Paduvankarai, causing tens of thousands of civilians to flee their homes into the government-controlled area. Meanwhile the Army began its advance into the area. A shell falling on Red Bridge west of Sittandy injured 14-year-old Niroshan who succumbed in Batticaloa Hospital on 1st March. The library at Navatkadu was hit on the same day. Locals who fled said that 3 civilians including 2 children were killed at Manjiatty. The toll of civilians and animals kept mounting as the days went by. Thousands of self-sufficient farmers have been rendered paupers overnight. The loss of life was significantly reduced by the flight of civilians.

The Government appears set to continue a scorched earth policy against civilians wherever the LTTE dominates temporarily or otherwise. Mutur is an example where civilians suffered heavily from government shelling during 3 days occupation by the LTTE for the limited purpose of taking out armed Muslim opponents. In Allaipiddy, the LTTE dominated it for a few hours and 24 civilians died in the shelling of the church.

There were precedents to minimise civilian suffering the Government is familiar with.

When beginning Operation Liberation in 1987, the Government instructed Jaffna's civilian population to stay in schools and places of worship and there was radio communication between the Government and GA Jaffna to relay civilian concerns. The present operations are aimed at large scale civilian displacement with no consideration given to viable measures to protect them.

Whatever the military arguments, there remains that one crucial question: Would the Government have fought the way it did, and knowingly (yes, knowingly) fired missiles at camps for the displaced using enemy fire from the vicinity (highly questionable in most cases) as an excuse, were those people in the camps Sinhalese? We reliably learn that when a foreign envoy put this question to a senior military official, there was in response an eloquent silence.

The LTTE is neither the government of the Tamil people, nor has it shown any concern for the wellbeing of its civilians. We continue to challenge the LTTE's abuses and its role in the present predicament. What we examine in this bulletin, and this is important, is mainly the Government's conduct, what its real aims are and its attitude to the civilian population. The minimal standards to be observed by a government are enshrined in Protocol Additional to the Geneva Conventions of 12th August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), which came into force on 7th December 1978.

4. Eastern Province – ‘A model for post-conflict peace building and development’

No doubt the donors have deep reservations about giving money to a government for the rehabilitation of people its own security forces treat as aliens, and whom its misguided strategy determined by a band of extremists in the Defence Ministry caused utter ruin. In mid-March Sri Lanka's Foreign Minister called on the UN *‘to complement Sri Lanka's efforts to uplift economic standards of Eastern Province residents...which could serve as a model for post-conflict peace building and development.’* (Daily News 15.3.07)

The Government's appeal for rehabilitation funds goes out at the same time that the security forces shell Paduvankarai relentlessly from Webber Stadium, Batticaloa, causing more and more refugees to pour into the city and environs that are already overcrowded and facilities grossly inadequate. Meanwhile the international media gave publicity to a number of relief and human rights agencies, beginning with the UN Under-Secretary-General for Humanitarian Affairs, crying foul over the activities of the Government, the LTTE and Karuna Group with regard to the refugees and the Government's forced relocation of refugees to where they are insecure, contrary to its own pledges.

5. Forced Resettlement of Traumatized IDPs¹¹

Refugees we spoke to were very anxious about security. Pathmanathan, already a tsunami refugee under pressure to return to Vaharai, expressed the fear that they would live in isolation with the security forces. Government officials would go back to Batticaloa or Valaichenai in the evenings or for weekends, so that when a problem arises, such as an LTTE provocation, there is no one who could give them any reassurance. Some complained that they had been called for a meeting and asked to sign a form that was interpreted as consent to return. We learn that when IDPs were returned to Vaharai on 7th March, UXO (Unexploded Ordnance) clearance had not been completed, and the conditions specified by the UN, including unimpeded access to monitor and for returnees to first visit and satisfy themselves of security and availability of infrastructure had not been fulfilled. Those who went wished they had not done so in the face of depressing conditions of broken and looted homes and reports of a variety of unchecked abuses by the Army and Karuna group.

Leonard says that he fears going back to Mutur because he has three sons 24 and below. There is no guarantee for their life in the existing tensions, having to live amidst LTTE provocations, the security and Karuna forces and Muslim home guards.

For those from Sampoor the uncertainty is even greater. In Batticaloa they feel relatively safe. They are seen and heard. But they are to be dumped in Killiveddy, an area south of Mutur from which there had been an exodus to Mutur East from army reprisals since April last year – the beginnings of the Mavil Aru issue. Also Killiveddy is an out of the way place where they could become out of sight and out of mind. The danger that faces the people from Sampoor is that they will be swept under the carpet and forgotten.

With the current displaced population in Batticaloa swollen to 165 000 by the arrival of over 60 000 from Paduvankarai, about 20 000 among these families alone would be in need of new houses. Those displaced by shelling from Paduvankarai so that the Army could move in and set up camps have lost much of their crops and animals and would be deeply indebted. New houses alone would cost \$ 60 million. The total material loss suffered by these people, averaging \$ 3000 per family would make \$ 120 million or about 10% of Sri Lanka's annual defence budget and is still climbing.

Adequate compensation must be paid on account of those who have lost life or limb and the refugees must be resettled in their original homes in conditions of security they have confidence in.

One of the western diplomats at the meeting of diplomats with community leaders in Batticaloa on 27th February, said that they would insist that people are settled back in their areas in accordance with former ethnic ratios. At the same meeting Minister for Human Rights and Humanitarian Affairs pledged the community leaders that no displaced persons would be relocated against their will.

But this began happening less than two weeks from that pledge, on 12th March, under the instructions of the new Governor for the East. Police and army units transported unwilling refugees back to Trincomalee in 35 buses. At Zahira College in Manmunai North an STF armoured car arrived along with a truckload of police officers, a police jeep and the buses destined for Trincomalee as though to transport prisoners of war. Other forms of intimidation included threats to stop rations and infiltration by the Karuna group, now notorious for abducting children and adults. By 21st March 927 families had been returned to Trincomalee District.

On 15th and 16th March the degree of coercion on refugees from Trincomalee in Chenkalady was even greater. No advance warning was given. In several cases children were in school when buses were brought and parents asked to pack up instantly. They had to leave without their children. At Palacholai near Chenkalady on 15th March, soldiers told the IDPs that they would burn their huts, throw grenades inside and shoot if they did not go. Local reports said that in some instances soldiers beat IDPs with sticks to drive them into buses. On 16th March, an STF man told a Sampoor refugee in Savukady that should he not return and is ever stopped on the road, his Trincomalee identity card could cost him his life. On the same day, some IDPs told UN agencies at Iyankerni that army personnel threatened refugees that they would be shot if they refused to go.

When the coterie around the president decides, no pledge made by a minister is worth a cent. The manner in which refugees shelled and chased by the Government were then pushed, herded, threatened with dire consequences if they refuse so-called resettlement and relocation, paints a grim picture of the position of minorities in Sri Lanka.

6. How the Forced Movement of Refugees was Effected?

We pointed out that the administrative de-merger of the North-East was announced when the fall of Vaharai was imminent. A military man Rear Admiral Mohan Wijeyawickrema was Governor of the East. Another military man Major General T.T.R. de Silva was already GA, Trincomalee. The Government's plans to refashion the East and obtain donor funds to do so called for a show of normality. One element of this was to sweep Muslim and Tamil refugees under the carpet. GA, Trincomalee, showed the way by using coercive methods backed by the security forces to shift Muslim and Tamil refugees from September 2006, without assuring them security or some form of normal life. This was also the model for moving refugees out of Batticaloa.

A senior administrator in Batticaloa told us that the Governor of the East initiated the shifting of refugees to Trincomalee and they were also involved in the movement on 12th March, but they have no problems with looking after them and feeding them in Batticaloa. For the purpose of shifting them, 9 divisions in Mutur West were identified and the task involved the UNHCR, the GAs of Batticaloa and Trincomalee and the military civil coordinating officer at Sitthandy. The UNHCR in Batticaloa objected, but the UNHCR in Trincomalee agreed to put up shelters.

It was later that they heard that the refugees who went on the 12th did not want to go and they went because of an undercurrent of intimidation by the security forces, which maintained a heavy presence near them. Subsequently, the Batticaloa Kacheri was not involved and the UNHCR too pulled out and the movement on the 15th and 16th March was done entirely by the military and the threats and coercion were more open. The role played by the new Governor for the East in the forced movement of civilians is an abuse of a ceremonial role in what was sold as democratic devolution.

When international agencies questioned the Government on these coercive practices and made the displaced aware of their rights through leaflets, the Defence Ministry and the government defence spokesman, Mr. Rambukwelle, rushed to question their motives and threatened to institute a probe (*Island* 24 Mar.07)! It is a very revealing irony that the head of the government peace secretariat and the secretary to the foreign ministry, Mr. Palitha Kohona, worked in the UN treaty reporting section for more than 10 years. Even he could not alert the Government to the damage it is doing to itself, remind it of its treaty obligations and point out the pitfalls of making everything else secondary to the whims of the Defence Ministry.

The Defence Ministry comes under the President, who has given his brother, the Defence Secretary, a blank cheque to undermine all other ministers and he is answerable to no one. Sadly, too many in the South have short memories of the canker that takes root under the pretext of defending the security forces. The outcome places the security forces in even greater peril and the obloquy they earn does disservice to servicemen who want the security forces to be a model of discipline and civilized values.

7. Resettlement of Refugees or Sweeping them Under the Carpet?

Non-governmental sources now place the displaced in Batticaloa at over 160 000. D.B.S. Jeyaraj observed in the *Morning Leader* (21 Mar.07) “*Despite [the Government’s] puerile yet callously insensitive efforts there is no denying that a terrible humanitarian tragedy is unfolding in the district. The latest figures indicate that 38% of the Tamil population in Batticaloa is now displaced.*”

A statement on the Defence Ministry web site of 12th March blaming the LTTE for the exodus of civilians, faulted concerned INGOs and NGOs for placing the number of displaced in Batticaloa at 120 000 and gave instead a figure of 79 670 and also claimed that 1399 have been resettled in Vaharai and 2803 in Killiveddy. It added that the 47 434 civilians listed by the Batticaloa GA as staying with friends and relatives could not be confirmed officially.

The Defence Ministry stated (12 Mar), “*The exodus from the areas South of Trincomalee were accommodated in the IDP camps in Valaichchenai and Batticaloa based on the situation then and the number stood at 23000. A contingent of 35 buses carrying 2803 IDPs are being taken to Kiliveddy today (12) from the IDP centers in Batticaloa thus making the Number of IDPs to be resettled in Trincomalee reduced to 20197.*”

What does resettled in Killiveddy mean? The Defence Ministry statement clarified later, “*The 20197 civilians who are displaced from Trincomalee district as highlighted above and are in Batticaloa would be taken to the transitional (sic) base at Kiliveddy for a brief rehabilitation program and be resettled in stages completing the resettlement by April.*”

Compare this with the media briefing by Defence Spokesman Minister Keheliya Rambukwelle on 7th March, where he said, “*Resettlement of displaced families in Vakarai has*

commenced...Today 827 have been resettled, 8000 in Ichchalanpattu, Sampur, will be resettled in Muttur. 23,000 will be resettled in Trincomalee south.”

The Defence Ministry is proud that they reduced the Trincomalee displaced by 2803 by forcibly moving them to Killiveddy and call this sweeping under the carpet resettlement. But neither in this nor in the Minister's statement is there any commitment to resettle those driven out of Sampoor and Mutur East back in their villages. This is a game of playing with numbers to hoodwink the rest of the world. What does the brief rehabilitation programme at Killiveddy involve?

There was no programme envisaged. Resettlement and Relief Services Minister Rishad Badurdeen admitted (*Daily Mirror* 20 Mar.) that about 10% Mutur displaced had been moved by force to ease congestion in Batticaloa and just that. His claim that it was done only on one day is not true. (Even after protests when it was done on 12th March, it was repeated on the 15th and 16th) He claimed that people who were in the low income bracket had refused to return to Mutur since they had no way of earning a livelihood and that resettlement in Mutur cannot be carried out immediately as land mine clearance must be carried out in the eastern regions (*Daly Mirror* 20 Mar.07).

The Minister's claims are highly questionable. People had been settled in Vaharai before the completion of UXO (unexploded ordnance) clearance, in a clumsy effort to reduce the number of displaced on paper. If it would take time to complete UXO clearance in Sampoor, there was no meaning in forcing Sampoor refugees to Killiveddy and pretending that they have been resettled. The Government's concern for overcrowding in Batticaloa is absurd when the reason for the jump of displaced in Batticaloa from 85 000 to 160 000 is its current shelling of Paduvankarai; and overcrowding is not a complaint from the people of Batticaloa, who are very sympathetic. If temporary shelters could be put up for them in Killiveddy, they can also be put up in Batticaloa. Moreover, if they are back in their homes, they would start picking up the pieces and income generation would get under way even without government help. Knowing what had happened in Killiveddy last April, the refugees had good reason to fear the Government's true intentions. The first fear is security.

8. From the Frying Pan into the Fire and Back into the Frying Pan

What is the rationale behind transporting these refugees to Killiveddy when it was where it all began in April 2006? First, a series of LTTE provocations against the security forces and the bomb blast in the Trincomalee vegetable market on 12th April (2006) gave pretext for the security forces and Sinhalese thugs under their patronage to attack Tamils and Tamil establishments repeating what happened in the mid-1980s.

In Bulletin No. 40, we recorded how the displacement began in Killiveddy in April 2006: *“The LTTE further stirred up things by attacks on the security forces and Sinhalese home guards in the Allai scheme. On 21st April the LTTE killed 2 policemen in a landmine attack in Menkamam. A Sinhalese mob in turn killed Chandran, a Tamil farmer. On the same day an LTTE land mine at 58th milepost, Dehiwatte, killed a Sinhalese home guard and injured a policeman. A Sinhalese mob knifed a Tamil man to death. Tamils left their section of Dehiwatte and some of their houses were burnt and looted. On 24th April the LTTE killed a Sinhalese home guard in Seruwila scheme C. On the 26th Sinhalese home guards or possibly soldiers killed 3 men in Joseph Devi's family, leaving her severely injured, in Seruwila*

scheme B. Tamils started fleeing Seruwila scheme B for Killiveddy, which is adjacent to Dehiwatte...

“...the people who had remained within cycling access to their homes and were already living in fear lost hope. The previous day, 24th May, a convoy of Tamil refugees, which included about 10 tractor loads had tried to enter Mutur town, but were prevented by the Army. The following day, Thursday, a host of displaced persons in the Allai Scheme, took whatever they could carry, their cattle and buffaloes and moved into the LTTE controlled area, swelling the already large displaced population in Muhattuvaram on the eastern shore.” Thus the displaced began the first stage of their saga in Mutur East.

This was the beginning of the troubles. With the flight of many Tamils and fear among Muslims only 45% of irrigable land under the Allai Scheme was planted. It was the bitterness among those who fled to Mutur East and the LTTE's stopping the water that triggered the Government's military offensive.

There is no rationale for bringing the refugees back to Killiveddy. The troops are more undisciplined than they were a year ago. The Sinhalese home guards are there. Attacks on Tamils have been continuing. As though to underline this concern, on 20th March 2007, the Army shot dead a youth called Chandran about 6.00 PM, near his home in 6th Colony, Dehiwatte. He did not have any LTTE contacts, but our sources say that some other member of his family had.

Many of the refugees have one refrain, *“We have lost everything. We have only our lives to begin with. It makes no sense for us to take risks moving to some insecure place unless it is home. At home we are among our kith and kin. Whether we live or die, we are in it together.”* That is why those from Sampoor do not want to go to Killiveddy.

In Batticaloa they feel safe and also there is a sizeable international presence. In Killiveddy there is almost none. There were a number of international organisations in Mutur covering Killiveddy. But the killing of the ACF staff in Mutur last August was taken as a warning to all international organisations, who have greatly reduced their coverage of the area and hardly any international staff stay overnight. Then what are the Government's intentions and what prospect awaits those shifted to Killiveddy? In many instances, they have heard reports that their houses have been arbitrarily levelled.

We must also remember that refugees have in the past been shunted out of public view, simply neglected and allowed to disperse and disappear. We drew attention to Weli Oya above. More than 3000 Tamil families were driven out of the area by the violence of the security forces. Five months later in April 1985 the *Saturday Review* reported (see Special Report No.5):

“There are still 7000 refugees in camps in Mulliavalai and Vattapali. Most of them are refugees from Kokkilai, Nayaru, Kokkutoduwai, Karunartukerni and Tennamaravady (in the northern extremity of Trincomalee District). They have been in occupation of 14 schools which have been closed since December 1984. All places last named have been declared prohibited zones.”

Now they are forgotten victims of an ideological project that has long been part of Sinhalese nationalist and armed forces culture. Today's fiasco strikes one as the Government going

through bogus motions of resettlement to create a façade of normality, without any firm assurance of returning all people to their original homes. The matter of compensation is again a sign of how much the Government cares for its Tamil victims.

9. Compensation for Tamil Victims in the East – No Discrimination on Paper in Sri Lanka

The Ministry of Rehabilitation used to pay Rs. 50 000 for a family in the event of the violent death of a breadwinner. This amount was raised to Rs. 100 000 (1 lakh) by a cabinet decision of 24th October 2001, based on a paper presented by Douglas Devananda then Minister of Development, Rehabilitation and Reconstruction for the North, and Tamil Affairs, North and East (see Appendix for details). Direction was then given that all GAs in the North-East should comply with it. But a circular was apparently not issued and soon afterwards Devananda ceased to be a minister.

Inquiries made by us revealed that the Jaffna Kacheri has been paying Rs. 1 lakh since at least January 2006, after Devananda was back as a minister, but the Tamils in the East were entitled to only Rs. 50 000 and were experiencing almost infinite delays even for this reduced sum. With inflation running at over 10% and now at 20% with the Government printing money to pay for the war, the Rs. 100 000 for death envisaged in 2001 would be worth half that amount today, but how the system has operated tells us a good deal. Though passed by the cabinet, receiving compensation today is largely guided by political patronage.

The two public instances last year where Rs. 1 lakh compensation was paid promptly, involved high-level intervention. One was to the 60 or so victims of the Kebitigollawa claymore mine attack in June 2006, probably by the LTTE. Second, to the 10 Muslim labourers killed in Pottuvil last September, leading to popular agitation against the STF by local Muslims causing the Government grave embarrassment. But when it comes to the bulk of the victims who are Tamils in the East, the system has been utterly indifferent.

A senior administrator in Batticaloa contacted by us confirmed that the family of a breadwinner killed is only entitled to Rs. 50 000. When told about the cabinet decision of 2001, he said that victims in the North receive their compensation through RRAN (Rehabilitation and Resettlement Authority for the North), while those in the East get it through REPPIA (Rehabilitation of Persons, Properties and Industries Authority).

The government administration had only to comply with the cabinet decision and all victims throughout the country would have received the same compensation. But the system blocked it. Once Devananda became a minister again, he revived it for his voters. Victims elsewhere get 1 lakh when there is a minister who as their patron makes a special application and distributes cheques as a favour to them, as happened in Pottuvil and Kebitigollawa. The Tamils in the East especially are the wretched of the Sri Lankan earth. Left to itself, the system would cheat them at every turn.

Compared to the speed with which the Government moves for favoured categories of victims, there are several hundred cases of families of persons killed in Batticaloa District who have not received compensation for applications going back to the 1990s. A senior administrator told us that there are over 200 applications pending in the Eravur division alone. The Batticaloa Kacheri received applications for 49 killed and 57 injured coming under the

Kathiraveli incident of November 2006. But money has not been forthcoming for even the maximum Rs. 50 000 payable.

On the other hand this Government is in fact notoriously profligate and the rulers have no sense of austerity at a time of suffering. Defence expenditure runs at US \$ 3.5 million a day and on many days easily \$ 1 million is spent bombing and shelling the North-East. And yet it is so hard to find \$ 500 to compensate a family that has lost a breadwinner and the Government's killing of Tamils currently exceeds a daily average of 5.

It doesn't leave much to the imagination to guess what this Government would do with money it is canvassing to make the East '*a model for post-conflict peace building and development*'. One thing is certain. Unless the Government rethinks its policy and acts according to its obligations to its own civilians, donor funds would leave the main victims of this war, the Tamils, far worse off than they are today.

10. The New IDP Phenomenon as Related by those on the Firing Line – Shelled from Sampoor to Vaharai to Batticaloa

10.1 To Languish, Disperse and Disappear?

The Government's bombing and shelling of Mutur East and Vaharai, intermittently from April 2006 and continuously from August to January 2007, disregarding any institutional measures to protect civilians, forces the conclusion that it acted with the deliberate intention of driving out the civilian population from especially the Tamil inhabited Mutur East.

The deliberate exclusion of available international humanitarian mechanisms and even old precedents observed by the government in designating safe locations; along with indiscriminate shelling of traditional places of refuge, such as schools, gives the lie to the Defence Ministry's claim that the exodus resulted from the '*Tigers...using these civilians as a human shield to guard themselves against any retaliatory strikes by the Security Forces.*' (Defence Ministry, 12 Mar)

10.2 Government and LTTE: A New Desultory Chapter in Decimating the Tamils

On 25th April 2006, using the suicide attack on the Army Commander in Colombo as a pretext, the Government began the first in a series of aerial and artillery attacks on the village of Sampoor. The people of Sampoor who were forced to flee remain homeless to this day with little hope of ever returning home. The LTTE too in defiance of any sense of responsibility for the people flaunted its naval power from the area just across the bay from Trincomalee Harbour and fired cannon into the naval base itself. Previously, they had forced youths, usually 15 and up, but sometimes going to 13 and 14, to undergo military training. Some escaped and were in hiding. Even married men were removed from supporting their families and were forced to do auxiliary duties.

What follows is a brief sketch of the displacement of Mutur East and Vaharai, where the inhabitants were forced to flee shelling and aerial bombardment by the Government in the context of fighting between the government forces and the LTTE. All those we spoke to, while describing the outrageous restrictions the LTTE placed on them, refute in general the claim that they were fired upon in response to firing by the LTTE. The Government version that the LTTE was using these people as human shields to fire from their midst is not

supported by testimony, at least not until the latter part of December 2006 when the fall of Vaharai was imminent.

No one can ever defend the LTTE's conduct. In a number of past instances the LTTE deliberately wanted civilian casualties. In 1987 it fired at the Indian Army from Jaffna Hospital and Kokkuvil Hindu College that were teeming with civilians seeking safety, to name just two instances. This is typical of the LTTE's behaviour when it is on the verge of losing control of a place and the civilian population was not going to listen to them or take any more. The LTTE went into Mutur town on 2nd August with no intention of staying on. It left the Police Station and the GPS Army camp alone. It wanted the Government to shell the place, encouraged the people to leave and sent them through a detour to screen them – the main point of the exercise.

With the displaced Tamil population in Mutur East and Vaharai, the LTTE was holding them from fleeing for months and using civilian casualty figures for propaganda aimed at stopping the government advance. There was a different logic involved.

Moreover, the displaced had repeatedly confronted the LTTE and demanded that they should not fire from their vicinity and they assert that had the LTTE tried to, they would not have allowed them. The LTTE was much of the time firing portable weapons and was some distance away. The exact distance, estimated by the victims at ¼ or ½ a mile to several miles, is not important. Usually, one mortar shell by the LTTE brought back a barrage of artillery shells fired indiscriminately at populated areas. Such disproportionate and indiscriminate use of force clearly contravenes international humanitarian law:

International humanitarian law addresses the principle of proportionality by prohibiting attacks that may cause ' incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.' (Protocol I Articles 51, 57).

The civilians were, it is true, often killed when there was fighting going on between the Security Forces and the LTTE, but hardly anyone was killed in the actual theatre of fighting. They were victims of indiscriminate bombing and shelling, often while moving from one place to another that seemed safer with women and children, and their meagre belongings packed on bicycles, but with no LTTE in the vicinity when death struck.

But in Mutur East and Vaharai schools were shelled with alarming regularity beginning with Senaiyoor Central on 25th April 2006 (no casualties) and then the tragic instance of Vigneswara, Kathraveli, on 8th November. The INGOs and the SLMM were kept out as were convoys of essential supplies for the most part. There was no provision for communication with the civilians and one had to find out from *TamilNet* after the worst had happened – giving the LTTE a monopoly of propaganda is a rather ironic feature of this sorry affair. The Government was in cynical violation of international standards.

10.3 'Liberating Sampoor'

It remains a mystery how the LTTE knew and warned the people before the aerial attack on 25th April 2006. Many lay flat on the road or in bunkers until the LTTE gave the clear signal. A witness told us that the security forces apparently aiming artillery at the Sampoor Pathirali police station, hit his neighbour's house killing 5 persons. He with a group of several from his

extended family, including three children, took their valuables and fled to Muhattuvaram. Among his family, his nephew Tharisan (15) and cousin Jeyaruban (17) underwent forced training. But the displacement enabled several of the youths to escape from the clutches of the LTTE. Random shells hit the staff quarters and the office at Senaiyoor Central College, but no one was hurt.

We reported in Bulletin No. 40: *“The apparent target of the shelling was a look out point in Sampoor, visible from the sea, which we learn was not hit. Shells hit a house about 300 yards inside killing 6 civilians. Two other houses were hit, 300 and 700 yards to the east claiming civilian casualties. The LTTE came to know about the shelling, apparently by tapping military communications, and had pulled back most of its cadres. An unexploded MBRL shell half buried in the sand was seen for some weeks afterwards. The government stopped the shelling after the air force, reportedly using information fed into computers, hit the Muslim village of Vattam killing 4 Muslim civilians and injuring two naval men at the Mutur jetty.”*

Whatever the intention, the result was pretty indiscriminate. The folk from Kattaiparichchan and Sampoor fled to Pattalipuram, Veeranagar, Nallur, Muhattuvaram, Kinniady and Kallay. They went back to their villages, though the schools stopped functioning and remained there until they were forced to flee again in August, they received food relief only twice, and that was through UNICEF and the Red Cross.

On 1st August, the Sea Tigers attacked the troop ship *Jetliner* near Trincomalee and were repulsed. The Air Force then attacked Sea Tiger bases along the coast east of Mutur. The following testimony was given by a civilian Sea Tiger auxilliary:

“Through the fishermen’s societies of which the LTTE had taken control, they forced 25 each from the villages of Sampoor, Sudaikuda and Nallur to serve as auxilliary sea tigers. We were divided into groups of 12 and 13 in each village and each group had to serve 15 days a month and 12 hours a day. We could not refuse, for if we did, we were not allowed to practice our regular professions and our families would starve. We were with them 15 days a month without going home. Our task was to launch the sea tiger boats when they went to sea and to draw them in and take them away when they returned. I was at Sudaikuda when the Sea Tigers attacked the troop ship. Then the Kfir bombers came in. We simply ran. A bomb struck a bunker, killing 6 civilian auxilliaries who had sheltered there. Two women sea tigers Nithya (26) and Nila (30) were killed trying to make it to the bunker.”

Vairavi (63) is an elderly farmer from Kattiparichchan. On the same day, 1st August, 6 government shells fell into his compound alone. There was heavy damage to his property and equipment, but the family was in a bunker and escaped. Everyone left their belongings and fled Kattaiparichchan. There was no loss of life. Vairavi went with his family to Pattalipuram. Selvam, a teacher who fled Kattaiparichchan said that while they were on the move on 3rd August, a shell falling near claimed the life of his cousin Kanaga Navaratnam (48), a farmer, who was with his wife and son.

From then it was pandemonium. The LTTE’s auxilliary system collapsed as the men joined their families and tried to find safer places to escape the bombing and shelling. The people were caught between exchanges of artillery between the Army and the LTTE. They were also victims of naval and aerial bombardment. Most of the refugees fled to Illankaithurai Muhattuvaram.

When the LTTE took Mutur town on 2nd August, Anthony Leonard (53) and his family took refuge in the Roman Catholic Church in Mutur as government-shells began falling. One shell fell near the church, killing a 5-year-old child and injuring Pushparani and Sinna. After burying the child in the church compound, the people moved to the convent that was under Sister Shanthiny. On the morning of Friday 4th August, the general talk reached them that they must dig bunkers if they are staying or must leave. They all joined the Muslims in walking towards Killiveddy. Leonard's eldest son William Gerad had a hernia operation a few days earlier and he too walked despite the pain. Leonard knew the 17 ACF staff who stayed in Mutur and were killed. He did some plumbing at the ACF office. The ACF had been helpful during the siege of Mutur and had built two toilets at the Church for their use.

Together with everyone else, the LTTE diverted the Mutur evacuees through Kinanthimunai. A single gunshot by which the LTTE killed Samreen, a Muslim, who argued with them over their disrespectful treatment of a religious teacher, sufficed for the Army to plaster the place with MBRL fire. 15 000 people began running in various directions. Leonard's mother Iruthayamary (72) was killed by an exploding shell. The family waited until they could bury Iruthayamary and by the time they finished it was evening. Rather than proceed to Killiveddy, they thought it best to move towards Verugal and later arrived in Kathiraveli.

Towards the end of August, troops moving towards Sampoor were battling it out with the LTTE. When Illankaithurai Muhattuvaram to which the refugees earlier fled came under attack by land, sea and air, with the air force targeting the bridge, many refugees in Muhattuvaram sought what appeared to be the safety of Pattalipuram. Sithravel Kirupa, a farmer and shopkeeper who fled Sampoor, said that the Kfirs attacked the vicinity of Pattalipuram and MBRLs were also fired the area on 28th August 2006 while refugees were in flight. Vairavi told us that 8 civilians were killed. Vairavi saw 5 dead bodies of a housewife, her daughter, nephew and two sons killed when a shell hit the culvert where they were sheltering.

Speaking of the same incident, Viji (B.Com, Eastern), a high school teacher at Senaiyoor Central, said that they all sought shelter from the intense MBRL attack and the 5 above died 200 yards from him. He and Singarasa, also from Sampoor, said that in all 8 persons died from the shelling and included Viji's cousin Ramesh (22) and *Asaiappah* (Uncle) Navaratnaraja, Ramesh's wife Vijayarani (18) and a girl named Chandra, all from Sampoor.

In these and the following incidents, all this needless suffering and disruption of life and livelihood could have been avoided, if the Government had mobilised the international presence and designated safe places for civilians as it had done in the past. By preventing the SLMM and international NGOs from going into the areas it denied the civilians any prospect of communication, protection and independent verification. The whole purpose of the exercise seemed to drive the civilians out at a terrible cost.

10.4 Flight to Vaharai

During August 2006 the Army advanced towards Sampoor which it took in early September. Most of the displaced from Sampoor and other areas were in temporary shelters on the seaside. When naval firing and missile attacks intensified, they moved into the Muhattuvaram village. Civilians told us that they had confronted the LTTE and told them not to fire from near them. The LTTE agreed and asked the civilians to stay in bunkers. A civilian told us as though in mitigation, "*But the Army did not know that.*" Sithravel found bombs falling about

100 yards from their bunker. A child standing outside its family bunker had its head severed by an exploding bomb.

At Muhattuvaram, the LTTE was firing from the sea side of the refugee encampment towards Kallar and Mavil Aru and the Army was firing from the interior, some distance from the civilians. The civilians were left with no choice but to flee once more, this time, at the end of August, across Verugal River into Vaharai. Viji asserts that there were casualties when they fled Muhattuvaram at midnight. Shells were falling around them but they could not see what happened and to whom. Sithravel told us that while at Verugal, they heard Kfirs and fled believing that the air force was going to bomb the Verugal temple. But the bombers bombed Kallady Neethiamman temple on a hill top and moved off. No one was hurt.

One witness who spent a month each in Muhattuvaram and Punnaiady and 15 days in Verugal was aware of about half a dozen persons being killed before crossing the Verugal. This time the refugees did not want to take chances. Their intention was to travel through Vaharai into the government-controlled area of Batticaloa. Many of them carried only a plastic bag and from April they had been chased, starved and fired upon.

By mid-August refugees from Mutur East were in Panichchenkeni and about to pass through into Mankerni into Valaichenai. They had faced missile attacks and slept in culverts. A missile attack in Kathiraveli injured Selvarajah, who was warded at Vaharai Hospital. Here they learnt to their consternation that the LTTE would not allow males 15 and above to pass through. But there was no stopping those who had suffered so much. The LTTE then told them that they were going to open fire at Army positions in Mankerni and the Cadju Plantation. The refugees panicked and scattered. Some went back to Vaharai and Kathiraveli, hundreds trekked 30 miles through the jungle westwards and made it to Valaichenai.

In the weeks that followed the LTTE too exacerbated the humanitarian crisis and the Government remained unbending in blocking relief and preventing international agencies from moving in. Even where the Government under pressure agreed to send supplies they were under various pretexts delayed or allowed through in grossly insufficient quantities. Civilians continued to die of missile attacks and deprivation.

On 7th October the Army made an incursion into Vaharai from Mankerni, which was beaten back with the Army suffering a significant number killed, including a major. The LTTE suffered a similar number killed, placed at 23. A woman from Mutur East told us that the dead were very young and *'our children forcibly taken recently'*.

Leonard's son William had walked many miles before his operation had healed and he badly needed to go to hospital. Although the Church sent a vehicle from Batticaloa to Kathiraveli, the LTTE would not let them go. Later on 8th October 30 families from Mutur, including Leonard's, walked to the Mankerni army point and the Church took them to Batticaloa.

10.5 The Shelling of Vigneswara School

An incident that attracted wide publicity was the Government's shelling of Vigneswara school and refugee camp in Kathiraveli on 8th November. Vairavi's family was in that school. Vairavi with other witnesses told us that they counted 23 corpses from the school in Vaharai Hospital, but impartial reports, including the SLMM's, placed the final list at above 40. Being

among the best documented cases of shelling amidst a constant outcry of a humanitarian crisis in the region, it is a good guide to the Government's attitudes.

The Government initially insisted that the LTTE had fired 81 mm mortars at Mahindapura and Kallar army camps injuring 5 soldiers and a civilian. The LTTE's mortars weigh about 90 lb and have a range of 3 to 3 ½ miles. The Army according to media reports fired back two rounds of MBRLs each from two guns and also 130 mm artillery shells, based on supposedly sophisticated identification of the source. This is similar to the Government's record in Mutur in early August. The Government shelled the Arabic College after the LTTE reportedly fired some hand carried missiles toward army positions from near the Dialog Tower nearly half a mile away.

Several refugees consulted by us said that the LTTE's firing position was some distance away. Vairavi was clear that he heard the noise of the LTTE firing, but it was 'miles away'. Not knowing the affiliations of who was talking to him, he repeated from the start, "*I must not tell a lie*", and declined to talk of individual casualty details outside his family. We treat his testimony as factual and without political frills, typical of a man who had suffered. The SLMM too did not find evidence that the LTTE had fired from the vicinity of the school. The Government did not allow SLMM to enter the LTTE controlled area again, where tens of thousand displaced and locals were trapped.

Four days after the shelling of Vigneswara School, on 12th November, there was shelling again towards the Palchenai area. Pathmanathan told us that an area affected was Periasamy Kovil Street and in all about 14 civilians were killed. The food situation continued to worsen and the flight of people in defiance of the LTTE continued. After the shelling of Vigneswara, Vairavi moved to the government school in Kandalady. One group fleeing towards the government-controlled area in a tractor was fired upon by the LTTE, which aimed at their tyres.

10.6 December 2006 – Rain of Shells and the Final Flight

While deaths on a small scale largely went unrecorded, the next major incident of civilian casualties happened on 9th December, when Sri Lankan artillery shells hit refugee camps at Palchenai and Vammivedduvan near Vaharai. Persons who spoke to the victims said that about 45 persons were killed or injured. Among those killed, they gave the following: **Miss. V. Yalini (13), Vivekanandan (36), Vanaravikumar (18), Y. Seetharam (45), K. Navaratnam.**

Sithravel who fled Sampoor was in Vammivedduvan when the shells fell. He said he was aware of four killed near the school where he was but the talk he heard was that about 13 had been killed. He saw an 'acca' (a senior woman) whose head had been blown off, but did not try to look at the other three because of the high intensity of shelling. He said the LTTE was firing not from near them, but from the jungle at least ½ mile away.

Once more the refugees fled including to the school in Kandalady. In the morning of 10th December the refugees at the Kandalady school were shelled. Vairavi's sister's son **Thames (30)** and his wife were killed, and also his grand nephew, **Theepan (18)**. Vairavi said that there was firing by the LTTE, but it was about 3 miles away. Referring to the same incident, Viji, the teacher, said that he was talking to Theepan, an O.Level student and relation, at a shelter 100 yards from the road when shrapnel from a shell that fell on the road pierced

Theepan's abdomen. Theepan died after admission to Vaharai Hospital. He said that 8 died on the road and they were a displaced family including a mother and children pushing a loaded bicycle along the road. The shelling was totally unexpected.

Kanapathy Ganesh (49), a fisherman from Uriyankattu with a family including 3 children said that by this time both sides of the road from Kandalady to Vaharai, a length of about 5/8 mile, was on both sides occupied by displaced persons. His brother Velmurugu, who was standing at the entrance to his house, was among those killed when Kandalady was shelled on 10th December. At the same time a family (same as that above) of about 7 walking along the road towards the hospital was also killed. Pathmanathan said that in all 12 civilians were killed.

At this time, the people felt that the Army was firing indiscriminately with the intention of getting them out. Pathmanathan (32) and family were tsunami victims with 3 children and they had been settled at Uriyankattu, Vaharai. On 13th December, shells hit their area. A father was at home with 2 children and the mother had gone to fetch water when a shell hit the home. The father was injured. One child was killed another was taken to Colombo for surgery and survived, having lost one eye. The Uriyankattu School was also damaged. Pathmanathan said that the LTTE was firing at that time, but that was about a mile away.

Following the series of attacks on refugee camps, both the displaced from Mutur and the Vaharai folk themselves moved close to the Hospital, moving into it whenever the shelling started. The Hospital itself was hit once causing slight damage. Unable to take any more of it a large number of people left Vaharai on the night of 17th December, crossing on foot the 'aru' (Vaharai lagoon) to the west of Vaharai into the jungle. Among them were the families of Pathmanathan and Ganesh.

Being unfamiliar with the waters, it being also the rainy season, a number of people drowned in the lagoon. An 'Amma' (mother) from Mutur with some belongings on her head was leading her two children across the lagoon, and in the treacherous waters lost her two children. The evacuees walked through the jungle to Rididenna, where the Army met them gave them refreshments and took them to Batticaloa in buses.

Sithravel's family was part of a group that left Vaharai on foot on 20th December. In the jungle they were stopped by the LTTE and detained. They argued with the LTTE that there was no point in stopping them. For one thing the shelling was unbearable, and besides, there were then not 10 000 persons in Vaharai. After being stopped for a day they just slipped away. They did not see the LTTE shooting at people to stop them, but heard after they arrived in Batticaloa that after their departure the LTTE had beat people leaving and even fired over their heads.

Vairavi's family was among those who had fled to Vaharai Hospital after the school where they stayed in Kandalady was hit. At Vaharai, his wife was diagnosed with cancer. His family was moved by ICRC boat on 30th December and his wife was warded in Batticaloa Hospital, where she passed away on 26th February 2007.

In the latter days of December, there were reports that the LTTE was firing from among the displaced. For one thing the LTTE was angry the people were defying them and leaving. The area of fighting had also narrowed down considerably. The determination of people to flee into the government-controlled area became unstoppable. We received very reliable testimony that the LTTE fired at army lines from among the displaced in Vaharai and several people

were injured when the Army fired back. The events of the final flight are largely undocumented and what the people say are mostly impressions at a time of panic. The extent of this is witnessed by the incidence of drownings of desperate people crossing the frontier by sea in overcrowded boats.

A number of witnesses assert that people died of firing by both sides and the LTTE fired at people whose desperation exceeded their fear of them. But these witnesses now in Valaichenai fear giving the names of those killed by LTTE firing. It would take time before we could document with any accuracy what happened during the last days of civilian flight amidst intense fighting around them.

Some report seeing scores of dead bodies during flight. One said that during a day in December when he fled, he helped carry 115 dead bodies. These are, factual or not, indelible impressions. Ganesh said that he had attended the funerals of about 100 persons in Kathiraveli, Kandalady and Vaharai, including those who died in Vigneswara School who were cremated on the Kathiraveli Esplanade. Another, again a powerful impression from the days of flight from Sampoor, said the number killed in the whole episode was not less than 1500. It would be a long time before we could disentangle metaphor from fact and one could easily underestimate the deaths.

Some idea could be gained from the conservative figures given by the Non Violent Peace Force for Batticaloa District during November 2006: “... according to figures collected by our teams, there were...between 149 and 177 civilian deaths, 85 combatant deaths, between 217 and 847 civilian injuries, and 68 combatant injuries due to violence. The discrepancies in the reported figures are an indicator of the increasing difficulties in obtaining objective information. Violence continued to escalate with 21 days on which shelling took place, 21 incidents of aerial bombing and artillery fire, 23 incidents of targeted shooting, 5 grenade attacks and one bomb explosion.” This suggests about 80 civilian war-related deaths in November distinct from the Kathiraveli School incident.

It is clear that the Government acted in violation of international humanitarian law and the principle of proportionality. Its actions constituted an indiscriminate and disproportionate use of force in response to alleged firing by the LTTE.

Likewise also the LTTE's coercive restrictions on the movement of civilians and violations of international humanitarian law, as evidenced in its scant respect for the protection of civilians. Its bankruptcy is paralleled by its offspring, the Karuna Group.

10.7 Games of Bankruptcy: LTTE-Karuna and the Uses of Muslim Bashing

Muslims have been victims in turn of Sinhalese chauvinist governments that contrived Muslim-Tamil enmity to circumvent a political settlement; and also of Tamil chauvinism that stirred up the same to find scapegoats for the misery it inflicted on the Tamils. The LTTE's Kattankudy and Eravur massacres in 1990 were in this vein. Today the Karuna group with state backing has made its presence felt by conscription, extortion and murder. Like its parent, it takes refuge in Muslim bashing, despite the hard fact that Tamils and Muslims need each other. On 9th and 10th January the Karuna group injured four Muslims by the use of arms in a dispute over building temporary shelters for the displaced from Vaharai in contested land, which could have been settled amicably.

The Muslims have nevertheless been forward in showing their goodwill and humanity by collecting resources through mosque committees and succouring displaced Tamils in their hour of adversity. Recently, groups of Muslims and Tamils working together were arranging cooked food to be delivered to refugees. Some Karuna cadres went to the refugee camps and ordered them not to accept food from Muslims. Taken aback, the organisers took the prepared food to the STF and asked for their help to deliver it. Later Karuna cadres beat up a village headman organising the food distribution.

When we are looking at problems of resettlement, we need also a historical perspective. We must remember that 70 000 displaced Tamils from Sri Lanka are living in camps in Tamil Nadu and another 80 000 outside camps. A number of them have raised families in India and as far as the Sri Lankan government is concerned, it is good riddance. A number of them have tried going back home, re-experienced violence and fled back. The following case, typical of many, is instructive also as regards 'resettling' refugees in Killiveddy. Resettlement turned out to be an illusion because the political and human rights foundations were not there, and the State and the LTTE had no concern for them.

11. A 21 Year Saga of Cross-Border Displacement – Travails of a South Asian Refugee from Trincomalee

Gopu, now 40, lived in Kuchchaveli, from where he was displaced to Nilaveli Kiramakkodu refugee camp with his family after Tamil militants (there were then 4 major groups) attacked the Kuchchaveli police station in early 1986. In September the same year the Army rounded up the Nilaveli refugee camp and he was among 26 persons transported by sea to Trincomalee and then to Boosa (Galle). He was brought back from Boosa in January 1987 and released to the Nilaveli village headman Mr. Suntheralingam. Fearing further harassment, he left his family and went by sea to Mullaitivu. On being informed of the birth of his second son K, with the permission of the fishing boat owner for whom he worked, he brought the boat to Nilaveli and took his family to Mullaitivu.

Following the Indo-Lanka Accord of July end 1987, he brought his family back to Kuchchaveli. When the LTTE returned to war with the Sri Lankan government in June 1990, Trincomalee was once more in turmoil. In July 1990, he took his family in his own boat to Nagapattinam in Tamil Nadu, India, and was at the refugee camp in Ammuni Square, Nagapattinam. Soon afterwards, on 8th August, his eldest daughter G was born. Following the LTTE's assassination of Rajiv Gandhi in May 1991, he was detained on suspicion at Vellore and his family was brought to live with him at a detention centre.

He opted to return to Sri Lanka. He was taken in handcuffs to Madras where his passport was obtained and he was flown to Sri Lanka and sent to Alles Garden refugee camp run by the UNHCR at Uppuveli, Trincomalee. On 2nd February 1994 he was asked to report to the Uppuveli police station where officers Baithullah and Rahim interrogated him. He was cleared because Rahim who was also from Kuchchaveli (Muslim section) knew him. The UNHCR later brought his family by the ship Nicobar.

During 2000 the situation became troubled again. On 25th February, Jeyakili, a fisherman from Sambaltivu, disappeared after being arrested by the Navy. In June 2000 Gopu took his family by bus to Mannar and they all went to India by boat, now the traditional route of refugees, and lived in Thiruannamalai Kashtampadi refugee camp. They all returned to Alles Garden after the 2002 CFA.

On 10th June 2006, he and his family went by boat to Mutur to attend the wedding of his friend Thuraiappah's elder sister's son. He also took along with him Ravi and his family from Manaiaveli, Trincomalee. From Mutur they took a bus to Pachchanoor. Just a little later, 9 home guards stopped the bus and boarded it. Then a police officer got in and ordered them out. The bus moved and ten minutes later a gunshot was heard inside the bus. As the bus stopped, the people got down and ran. His wife and daughter G escaped through the front. It later transpired that a Muslim home guard had hidden in the bus and fired at Ravi, killing also a ten year old boy from Koonitivu.

Ravi lay dead in the bus, while his wife clung onto Gopu and wept. They both got down through the back and ran. A few yards later a man who came on a motorcycle stopped Gopu and asked him who he was, apparently connecting him with Ravi because Ravi's wife was with him. Gopu then felt bullets piercing him from the back, one going through the back and coming out through his left chest, one his right shoulder and coming out through the chest and the other broke his left jaw.

The Army then came there. Though fallen, Gopu was conscious enough to plead with a soldier in Sinhalese as *Mahattaya* (Sir). The soldier radioed the Police. An ambulance first took him to Mutur Hospital and then the Navy by sea to Trincomalee Hospital. 42 days later he was dispatched to Kandy Hospital for surgery. Upon seeing him, the surgeon in Kandy speaking in Sinhalese, apparently not knowing he understood, said that soldiers are dying in the North-East and they cannot treat him. (By then it was early August 2006 when fighting had intensified.) However, the Head Nurse was kind to him, but her orders to junior staff to attend to him were ignored.

With much sorrow he returned to Trincomalee Hospital for treatment. Unable to walk or use his hands, he found his way back to Mandapam camp in Tamil Nadu where *Ofer* is looking after him. Meanwhile, during Gopu's ordeal, his son was staying with his sister Papaathamma and studying for his A. Levels at Chelvanayakapuram Tamil School. On 20th August 2006, the LTTE forcibly removed 15 students in his class including his son. After training in Kathiraveli, his son and three others escaped through the jungle. The Army arrested them and sent them to a reform institution in Colombo where the Human Rights Commission visited them, as Gopu heard from his son by letter.

12. Implications for Resettlement

The case above is just one among many typical of the last two tragic decades. It doesn't show the Sri Lankan system to be all bad. There are areas of hope which need to be encouraged. But what it does show is that there is no possibility of viable resettlement under these conditions.

Today, the drama and tragedy of displacement belies any pledge that the Government would play fair by the Muslims and Tamils in the East. Take for example the BBC interview in mid-March by Sri Lanka's Foreign Minister. His contention was that Sri Lanka strives for an excellent human rights record and claims of violations are just allegations for which the Police have not found the evidence. Indeed, how could the Police find any evidence in the 5 Students Case when the investigation was under the SP responsible for the killing of the students? Incidentally the same SP promoted to SSP conducted investigations into the killing of the 17 ACF staff. So much that the Government does in the North-East belongs to this category.

- The victims of war-related violence in the North-East must be helped irrespective of ethnic affiliation and the Tamil displaced must be returned to their original homes including Sampoor. Trying to do it through the government machinery, which is largely responsible for causing this problem, whom neither the donors nor the victims could trust, would result in only cursory measures.
- We urge the international community to impose conditions, involving international supervision and local participation, which would ensure that the work is done thoroughly and equitably. While the LTTE is unlikely to agree to any settlement and is likely to go on causing destruction, the challenge of rehabilitation calls for both effective devolution and direct international participation.

Things need to be changed drastically. Security needs to be assured by an international mechanism. Matters **cannot be left to state patronage under** this monolithic unitary system in which the minorities continue to have real fears. A political settlement realistically needs to go well beyond the failed unitary model. Merger or de-merger as pertains to the North-East cannot be treated as purely a legal issue. It is deeply political and needs to be handled with mature wisdom. Decades of insecurity faced by the minorities led to the political notion of a homeland and a demand for it. If the Government does not acknowledge this historical reality, its averments on finding a political settlement are without substance. De-merger, which has been the battle cry of the current legates of the 1956 Sinhala Only Movement, has also been the cue to crush the Tamils by crude military means. A political settlement remains an essential element in doing justice to the displaced.

Appendix

Payment of Compensation

From the Minutes of the meeting of the Cabinet of Ministers held on 24.10.2001

Cabinet Paper 01/1789/026/006, a Memorandum dated 26.09.2001 by the Minister of Development, Rehabilitation and Reconstruction of the North, and Tamil Affairs, North and East, was considered along with the observations of the Minister of Finance and Planning and approval was granted for the payment of compensation for dependants of persons killed due to Terrorist activities as follows:

1.General Public

(a) Deaths

Married Adults	Rs. 100,000
Unmarried Adults	Rs. 50,000
Minors below 18 years of age	Rs. 25,000

(b) Injury

Above 18 years of age	Up to Rs. 50,000
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Below 18 years of age Up to Rs. 25,000

(c) Funeral Expenses Rs. 10,000

2. Public Servants

(a) Deaths Rs. 200,000

(b) Injury Up to Rs. 100,000

(c) Funeral Expenses Rs. 10,000

3. Cooperative Employees

(a) Deaths Rs. 150,000

(b) Injury Up to Rs. Rs. 100,000

(c) Funeral Expenses Rs. 10,000.

¹⁴ Internally displaced persons are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border." (Guiding Principles on Internal Displacement, Introduction, para. 2). Unlike refugees, who have been deprived of the protection of their state of origin, IDPs remain legally under the protection of national authorities of their country of habitual residence. IDPs should therefore enjoy the same rights as the rest of the population. The Guiding Principles on Internal Displacement remind national authorities and other relevant actors of their responsibility to ensure that IDPs' rights are respected and fulfilled, despite the vulnerability generated by their displacement.